

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

BRUCE BROWN,  
Petitioner,

v.

L. LUNDY,  
Respondent.

Case No. [24-cv-00195-JD](#)

**ORDER RE DISMISSAL**

Petitioner, a state prisoner, filed a pro se habeas petition pursuant to 28 U.S.C. § 2254. In *Brown v. District Attorney*, Case No. 22-cv-5609 JD, the Court dismissed the petition challenging Brown's 2010 conviction as untimely. In *Brown v. Phiffer*, Case No. 23-cv-3583 JD, the Court dismissed the petition as duplicative. The Court noted that to the extent Brown sought to file a new petition about resentencing that would not be a successive petition, he must first exhaust that claim in state court.

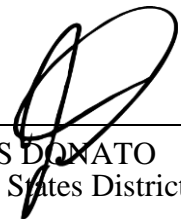
In the original petition in this case, Brown appeared again to raise claims about his 2010 sentence. All of the exhibits related to the original conviction and sentence. Brown was advised that this petition was successive. He was also advised that if there was a resentencing hearing, he must present specific claims regarding the resentencing hearing and those claims must be exhausted in state court. The petition was dismissed with leave to amend to provide more information. Brown has filed an amended petition.

Brown says that he received a three-year enhancement with his original sentence in 2010 that is now legally invalid due to recent changes in state law. But Brown has not sought relief in state court to request resentencing or presented any claim to the California Supreme Court. Dkt. No. 11 at 7. His claim is unexhausted, and he must first seek relief in state court.

The case is dismissed without prejudice. A certificate of appealability is denied and the Clerk is requested to close this case.

**IT IS SO ORDERED.**

Dated: June 28, 2024



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JAMES DONATO  
United States District Judge

United States District Court  
Northern District of California